



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2021-0077; Notice 1]

Michelin North America, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Michelin North America, LLC (MNA), has determined that certain Michelin Pilot Sport All Season 4 replacement passenger car tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. MNA filed a noncompliance report dated September 14, 2021, and subsequently petitioned NHTSA on September 30, 2021, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of MNA's petition.

DATES: Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room

W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to https://www.regulations.gov, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at https://www.regulations.gov by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Jayton Lindley, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (325) 655-0547.

SUPPLEMENTARY INFORMATION:

I. Overview:

MNA has determined that certain Michelin Pilot Sport All Season 4 replacement passenger car tires do not fully comply with the requirements of paragraph S5.5.4(b) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139). MNA filed a noncompliance report dated September 14, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. MNA subsequently petitioned NHTSA on September 30, 2021, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of MNA's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Tires Involved:

According to MNA approximately 3,589 Michelin Pilot Sport All Season 4, size 295/40ZR21 111Y XL, replacement passenger car tires, manufactured between October 7, 2020, and August 20, 2021, and sold in the United States and Canada were affected by the subject noncompliance. MNA says that of the 3,589 tires, 1,729 tires entered the US market, 110 entered the Canadian market, and the remaining 1,750 were blocked in Michelin's inventory control system to be repaired or scrapped. For the 110 tires that entered the Canadian market, the agency cannot exempt MNA from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to

remedy the defect or noncompliance for those tires. Therefore, the agency's decision will only apply to the 1,729 tires that entered US market.

III. Noncompliance:

MNA explains that the noncompliance was due to a mold error in which one sidewall, the serial sidewall, of the subject tires incorrectly state the maximum load range as required by paragraph S5.5.4(b) of FMVSS No. 139. Specifically, the subject tires were marked with a maximum load of 1090 kg (1433 lbs.) when they should have been marked with a maximum load of 1090 kg (2403 lbs.).

IV. Rule Requirements:

Paragraph S5.5.4(b) of FMVSS No. 139 includes the requirements relevant to this petition. For passenger car tires, if the maximum inflation pressure of a tire is 240, 280, 300, 340, or 350 kPa, then each marking of the tire's maximum load rating in kilograms must be followed in parenthesis by the equivalent load rating in pounds, rounded to the nearest whole number.

V. Summary of MNA's Petition:

The following views and arguments presented in this section, "V. Summary of MNA's Petition," are the views and arguments provided by MNA. They have not been evaluated by the Agency and do not reflect the views of the Agency. MNA describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety for the following reasons:

MNA asserts that although erroneously marked, the subject tires were "designed as a load index 111 tire, with a maximum load rating of 1090 kilograms, or 2403 pounds." MNA says that the subject tires "fully comply with Michelin performance requirements" and with all applicable FMVSSs. According to MNA, other than the tire maximum load rating in pounds, the tires are correctly marked and "provide both dealers and consumers with the necessary information to enable proper selection and application of the tires." MNA says that if a consumer were to go by

the erroneous maximum load, in pounds, based on the markings on the tire, the tire would be put “into service respecting a maximum load of 1433 lbs., which is less than the actual designed maximum load of 2403 lbs.”

MNA cites the following past inconsequentiality petitions NHTSA has granted that MNA claims are similar to the subject petition:

- Bridgestone Americas Tire Operations, LLC, Grant of Petition for Decision of Inconsequential Noncompliance. *See* 78 FR 35357, June 12, 2013;
- The Goodyear Tire & Rubber Company, Grant of Petition for Decision of Inconsequential Noncompliance. *See* FR 41254, July 18, 2005;
- Continental Tire North America Inc., Grant of Application for Decision of Inconsequential Noncompliance. *See* 70 FR 14748, March 23, 2005;
- Michelin North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance. *See* 69 FR 62511, October 26, 2004; and
- Bridgestone/Firestone, Inc., Grant of Application for Decision That Noncompliance Is Inconsequential to Motor Vehicle Safety. *See* 66 FR 57772, November 16, 2001.

MNA states that they have “captured and retained” a total of 1,750 tires with the intent to either repair or scrap them. MNA also states that they have corrected the tire specification drawing and updated the mold to reflect the correct maximum load in pounds.

MNA concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to

notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject tires that MNA no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after MNA notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

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